

ANDRE' P. LESTER)
)
 v.) NO. 3:05-0770
)
 MICHAEL CHERTOFF)

REPORT AND RECOMMENDATION

The plaintiff filed this action pro se on September 30, 2005, against Michael Chertoff, the Secretary of the Department of Homeland Security. He asserts claims of workplace discrimination. The record in the action does not reflect that process has been served on the defendant by the plaintiff, and no response to the complaint has ever been filed.


Accordingly, the Court recommends that this action be dismissed. There is nothing which indicates that the defendant has been served with process within 120 days of the date this action was filed as required by Rule 4(m) of the Federal Rules of Civil Procedure. Rule 4(m) provides that, in the absence of a showing of good cause by the plaintiff for why service has not been timely made, the Court "shall dismiss" the action without prejudice.

RECOMMENDATION

Accordingly, the Court respectfully RECOMMENDS that this action be DISMISSED without prejudice in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of receipt of this notice and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

Respectfully submitted,


JULIET GRIFFIN
United States Magistrate Judge